

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

October 12, 1995

LaWanda Duncan
3801 E 109th Street North
Valley Center, KS 67147

**RE: CU-383 - Conditional Use Permit for a boarding and breeding dog kennel located
1/4 mile east of Hillside on the south side of 109th Street North.**

Dear Ms. Duncan:

On October 11, 1995, the Board of County Commissioners considered the above-captioned request. The action of the Commission was to deny the request.

If you have any questions, please call our office 268-4421.

Sincerely,

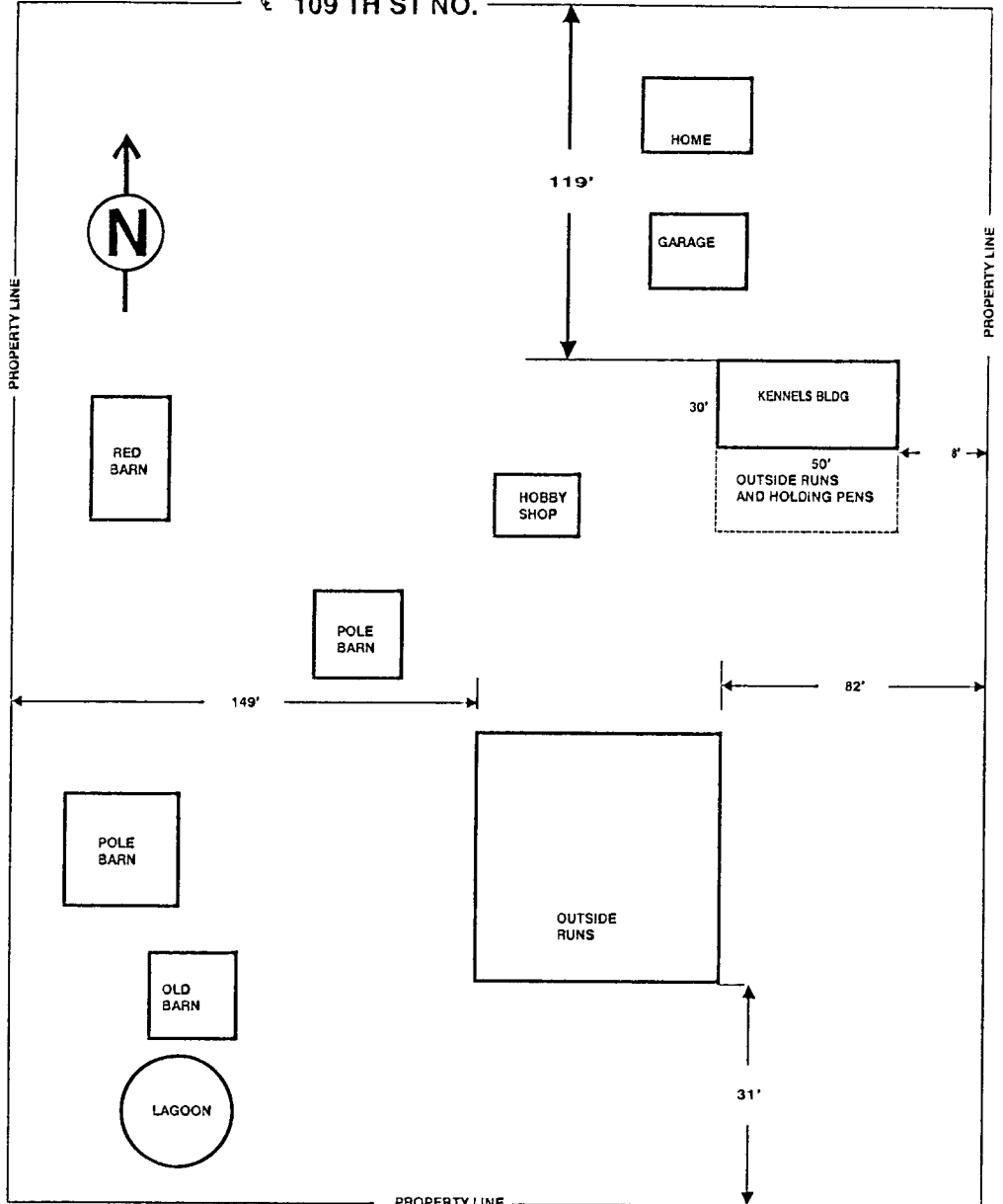
Kevin Kokes
Senior Planner

KK/hm

CC: Darlene L. Smith, 3210 W. 72nd Street, Valley Center, KS 67147
Thomas D. Harris, P O Box 355, Valley Center, KS 67147
Frank Higgs, Rt 1 Box 245, Valley Center, KS 67147
Nancy A. Whitaker, Rt 1 Box 117, Valley Center, KS 67147
Nickey Sharpe, Rt 1 Box 110, Valley Center, KS 67147
Charles Barkley, 3601 E 109th Street North, Valley Center, KS 67147
Dale Stinson, Jr., Suite 430, R. H. Garvey Building, 300 West Douglas, Wichita, KS 67202
Carla Appling, Health Department
Mark Bradshaw, Health Department
Rick Corley, Sedgwick County Code
Sedgwick County Code Enforcement

CU-383

109 TH ST NO.



STAFF REPORT

September 14, 1995

CASE NUMBER: CU-383

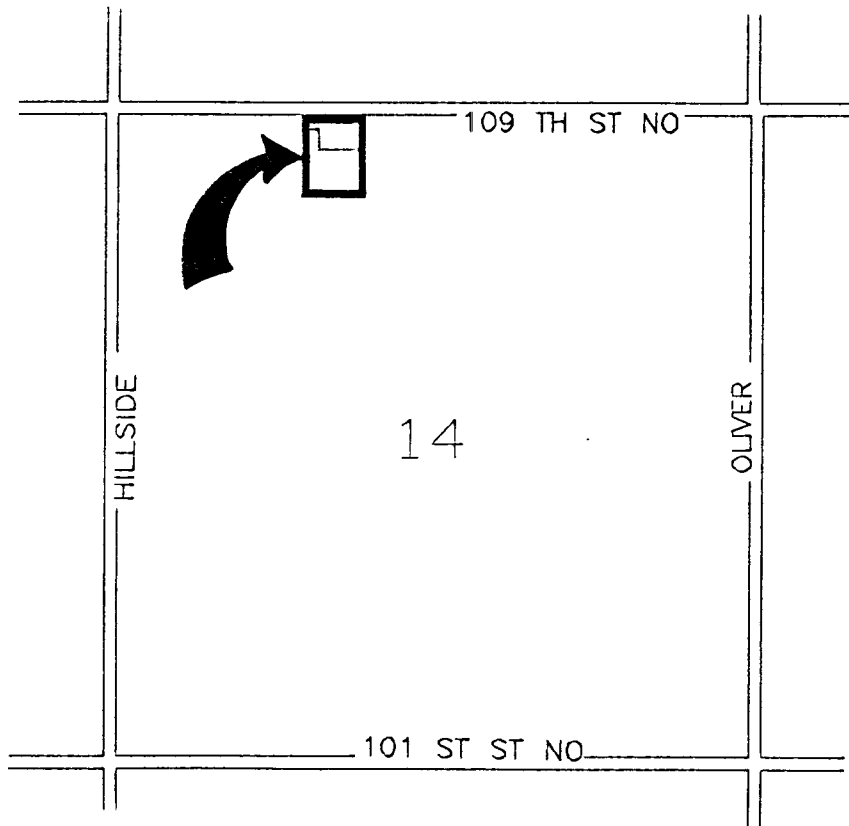
APPLICANT/AGENT: Darlene L. Smith & LaWanda Duncan (property owners) / Tom Harris (agent)

REQUEST: Conditional Use Permit for a boarding and breeding dog kennel

CURRENT ZONING: 'R' Rural Residential

SITE SIZE: 5 acres

LOCATION: ¼ mile east of Hillside on the south side of 109th Street North.



BACKGROUND: The applicant requests a Conditional Use Permit for a boarding and breeding dog kennel on property zoned 'R' Rural Residential. The subject property is a 5 acre site located ¼ mile east of Hillside on the south side of 109th Street North. The site is currently developed with a single family home, several barns, a hobby shop, an enclosed kennel building with adjacent outside runs and pens, and longer outside runs located on the southern portion of the property. A mobile home is located to the west and is separated from the subject property by a creek and dense vegetation. A single family home is located to the east with horse corrals located between the applicant's property and the home to the east. Agricultural uses are located to the north and south.

The County Zoning Resolution allows kennels (boarding/breeding/training) as a Conditional Use in areas zoned 'R' Rural Residential, subject to the following conditions:

1. Five-acre minimum lot size, unless all animals are harbored indoors with no discernible noise or odor at the property line.
2. Outside runs, holding pens or other open-air type enclosures and shelters shall be located behind the front yard setback line and no closer than 200 feet from a dwelling other than the owner's and no closer than 50 feet from adjoining property lines. Screening shall be provided except for those facilities located 600 feet or more from adjoining property lines.
3. Additional conditions determined appropriate by the Board of County Commissioners.

The Regulations define "kennel screening" as a structure, solid or semi-solid fencing, landscape materials, earth berms or natural site features maintained for the purpose of concealing from view of the animals (Section 2). If fencing is used, it must be between 4 and 8 feet in height. If landscape materials are used for screening, the materials must provide the desired screening effect within the first growing season following installation.

The applicant's attorney indicated in a letter to MAPD dated August 4, 1995, that the applicant recently purchased the property and the previous property owner operated a kennel on the site. After purchasing the property, the applicant constructed improvements to the site designed for greyhounds. The kennel is planned to work with the adoption program at the Wichita Greyhound Park. The maximum number of dogs (adult dogs and puppies) in the kennel would not exceed 50 at any one time.

Although the property was previously used for a kennel, the County Department of Code Enforcement indicates that the property does not have any legal

nonconforming rights. In April 1995, Code Enforcement staff informed the applicant that the kennel was in violation of the Zoning Resolution when a mechanical permit was requested for several improvements that were planned or under construction at the time. According to Code Enforcement staff, the property owner failed to apply for a Conditional Use Permit for the kennel for over three months and continued to make improvements to the property during that time, some of which are located in the required setback areas.

According to the sketch plan submitted by the applicant, outside runs are located within 31 feet of the south property and an enclosed kennel building and its adjacent outside runs and holding pens are located approximately 8 feet from the east property line. Based upon measurements by planning staff from aerial photos, it is likely that the outside kennel area along the east property line is also located within 200 feet of the single family home to the east. Since these outside areas do not meet the requirements of the Zoning Resolution, the runs and pens will need to be enclosed or moved, because the Board of County Commissioners does not have the authority to modify conditions as required by the Zoning Resolution. The applicant could request a Variance to the zoning requirements, which would require an additional public hearing and approval by the County Board of Zoning Appeals. However, it is staff's opinion that the applicant would not be able to meet the five criteria to justify a reduction in the required setbacks for the outdoor areas (*i.e. the variance arises from a unique condition of the property; the granting of the variance will not adversely affect the rights of adjacent property owners; the strict application of the zoning regulations will constitute an unnecessary hardship upon the property owner, etc.*).

CASE HISTORY: No previous zoning or Conditional Use Permits have been requested for this site. The property was zoned 'R' Rural Residential as part of countywide zoning in 1984.

ADJACENT ZONING AND LAND USE:

NORTH:	'R'	Agricultural uses
SOUTH:	'R'	Agricultural uses
EAST:	'R'	Single family home, horse corral, agricultural uses
WEST:	'R'	Mobile home, horse corral, agricultural uses

PUBLIC SERVICES: Neither municipal water service nor sewer service is available to serve this area. The site has access to 109th Street North, an unimproved 2-lane section line road with 30 feet of existing half-street right-of-way. The standard requirement for half-street right-of-way is 50 feet. Traffic counts are not available from this roadway.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for agricultural uses.

RECOMMENDATION: Staff feels that the proposed use is appropriate for rural areas of the County and, with certain restrictions, can be compatible with the adjoining horse corrals and nearby residences. However, staff feels that the existing outside kennel runs and holding pens should be enclosed or moved and staff would not support a Variance to the required setbacks for such activities. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Prior to publishing the resolution authorizing the Conditional Use Permit, the applicant shall dedicate, by separate instrument, an additional 20 feet of right-of-way along 109th Street North.
- B. Prior to publishing the resolution authorizing the Conditional Use Permit, any existing outside facilities within the required setback areas along the east or south shall be enclosed or moved. No outside runs, holding pens or other open-air type enclosures and shelters shall be located within 50 feet of adjoining property lines. Enclosed kennel facilities shall be permitted within 50 feet of the east property line in an area as indicated on the site plan.
- C. The owner or occupant of the application area shall comply with the rules and requirements of Chapter 5 (Animals) of the Sedgwick County Code.
- D. The owner or occupant of the application area shall comply with the rules and requirements of the Wichita-Sedgwick County Department of Community Health relative to on-site sewage and water wells.
- E. Pursuant to Section 5(A)(10)(1)(2) of Sedgwick County's Zoning Resolution, outdoor exercise runs, holding pens, or other open-air type enclosures located within 600 feet of a property line shall be screened in accordance with the definitions of "kennel screening" (Section 2).
- F. If the dogs are confined to indoor runs which provide the dog with direct access to an outside exercise enclosure which provides at least 100 square feet of exercise area, the indoor run shall not be smaller than 5 feet by 5 feet to accommodate a single dog. If the dogs are confined to indoor runs which are not directly connected to a suitable outdoor exercise run, the indoor runs shall not be smaller than 4 feet by 8 feet to accommodate a single dog. If more than one dog is to be kept in the run, the length of the indoor run shall be increased by 2 feet for each additional dog.

G. The kennel operator shall have on file proof of rabies vaccination by a licensed veterinarian and proof of identification and ownership for all dogs five months and older.

H. Artificial lighting shall be provided in any indoor run for a minimum of 25 feet of candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.

I. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a "suitable method" of eliminating excess water from animal housing facilities shall be provided as determined by the Wichita-Sedgwick County Department of Community Health. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. Any indoor kennel facilities shall have fresh air ventilation providing a complete air change at a minimum of five- to six-minute intervals. Exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees F or higher.

J. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The dogs shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.

K. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by Chapter 14 of the Sedgwick County Code.

L. Dogs confined in the dog boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.

M. The number of dogs (adult dogs and puppies) authorized to be boarded by virtue of this resolution shall not exceed 50 at any one time. Dogs shall be contained in an enclosed structure between the hours of 10:00 PM and 6:00 AM.

N. The dog boarding kennel facility shall be open to the unannounced inspection by Sedgwick County Department of Code Enforcement personnel during reasonable daylight business hours to insure continued compliance with the above requirements.

O. Any violation of the foregoing conditions shall render this Conditional Use Permit to be null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The general area is characterized by agricultural uses and suburban residential development. The proposed use is compatible with the horse corrals located adjacent to the property to the east and west.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is required to meet all standards and conditions of the Wichita-Sedgwick County Department of Community Health. The proposed use is compatible with the horse corrals located adjacent to the property. Any enclosed kennel facilities should not impact nearby properties more than the agricultural buildings on the subject property.
3. Conformance of the requested change to adopted or recognized Plans/Policies: The County's Zoning Resolution allows kennels of boarding/breeding/training with a Conditional Use permit in areas zoned "R" Rural Residential. The proposed use is appropriate for rural areas of the County.
4. Impact of the proposed development on community facilities: The proposed use should have a minimal impact upon traffic in the area and municipal facilities are not necessary.